IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5147 OF 2005

Shri MOhan Kaka Sawant. . .. Petitioner.

vs.

Maharashtra State & Ors. .. Respondents.

Smt. S.S. Gokhale for petitioner.

Mr. Umesh Mankapure for respondents nos. 9 & 15.

CORAM : S.U. KAMDAR, J.

DATE : 28th November, 2005.

P.C.:

. The present petition is filed challenging the order dated 16.3.2005 passed by the Additional District Judge, Sangli on an interim application exhibit-5. The dispute pertains to the right of way from the property Gat No. 483. The finding of the trial Court is based on record and the observation of the Mamlatdar under the provisions of the Mamlatdar's Courts Act, 1906. Under section 22 of the Mamlatdar's Courts Act, 1906, it has been expressly provided that the proceedings which are before the Mamalatdar cannot be taken into consideration by the civil Court and the same is not

binding on the civil court and the civil court has to determine the issue on its own merits. From the perusal of the impugned order it is clear that the only basis on which the interim application is based is the proceedings before the Mamlatdar. In the light of the provisions of Section 22 of the Mamlatdar's Court Act, 1906, I am of the view that the impugned order dated 16.3.2005 is unsustainable. In that view of the matter, the order dated 16.3.2005 is set aside. The Additional District Judge, Sangli is directed to rehear the said Misc. Appeal No. 112 of 2005. The Additional District Judge, Sangli is directed to consider the documents which are on record and pass appropriate order in the said Misc. Appeal. The Additional District Judge, Sangli is further directed to dispose of the same finally on or before 31.12.2005. Petition is made absolute accordingly. No order as to costs.